

REMARKS/ARGUMENTS

Claims 1-46 remain pending in this case. Claims 1-4, 8-11, 22, 23, 36 and 37 are elected with Claims 5-7, 12-21, 24-35 and 38-46 withdrawn based on the Office's imposed Restriction. With respect to these withdrawn claims, Applicants request that they be rejoined upon finding that the elected product claims are allowable.

The amendment to the claims defining the cell line as "isolated" and "not containing a transgene" is supported by the specification on page 14, lines 6-10.

No new matter is believed to have been added by the amendments.

The rejection of Claims 22 and 23 based on the cell lines BMEL-14 B3 and BMEL-9A1 is respectfully traversed. Notably, as stated in the sentence bridging pages 8-9, both cell lines have already been deposited. Moreover, Applicants confirm that all restrictions imposed by the depositor on availability to the public of deposited cell lines BMEL-14 B3 (CNCM I-3100) and BMEL-9A1 (CNCM I-3099) will be irrevocably removed upon-issuance of the patent.

Accordingly, withdrawal of this rejection is requested.

The Examiner has also rejected the claims as allegedly being indistinguishable over cells which exist in nature (page 5, 35 USC 101). However, the claims clearly require that the cells be cultured which provides a step that distinguishes the cells from those found in nature (i.e., cells in nature are not cultured). Nonetheless, to make this distinction more clear, Applicants have adopted the Examiner's suggestion to incorporate the term "isolated," which as noted by the Examiner is supported on page 8, line 16 of the specification.

Withdrawal of this rejection is requested.

The rejection under 35 U.S.C. §102(a) based on the October 2002 publication of Strick-Marchand and Weiss is respectfully traversed. As shown in the attached, the article was published online on October 4, 2002 (i.e., less than one year prior to the filing of the application). In addition, as stated in the attached Declaration from the named inventors of the present application, the work described in the publication is their own work and therefore is not believed to be a publication by another as required under 35 USC 102(a).

Withdrawal of this rejection is requested.

Turning to the rejection in view of Spagnoli, et al, Applicants note that this article is described on page 3 of the specification and it is quite clear from the publication that the hepatocyte cell lines described in that article contain the MET transgene. In contrast, the subject of the present application is to provide non-transformed cells which do not contain a transgene (see the last paragraph on page 3 of the application). To make this distinction more clear, the claims have been amended to incorporate this feature (i.e., the cells do not contain a transgene).

Moreover, Spagnoli describe that the major effect of the transgene Cyto-Met is to stabilize a phenotypic state in liver cell that is normally only transitory (page 1111, left column, lines 26 to 28). This suggests that without the presence of such a transgene, bipotential liver cell lines could not be obtained. Therefore, Spagnoli et al do not teach or suggest a cultured, immortalized, non-transformed bipotential liver cell lines **not containing a transgene** such that Cyto-Met. In fact, one would be dissuaded from trying to isolate bipotential liver cell lines (such as those claimed) because Spagnoli et al. teaches that they are only transitory, without using Cyto-Met transgene or without inducing either transformation of this transitory cell to make a stable cell line.

Accordingly, withdrawal of this ground of rejection is also requested.

A copy of the IDS (PTO-Form 1449) filed on October 3, 2003 and the references listed are attached as requested in the Official Action. Notably, two of the references have already been cited on the PTO-892 (refs. AW and AY).

A Notice of Allowance for all pending claims is also requested.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, she is encouraged to contact Applicants' undersigned representative.

Respectfully submitted,

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